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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

JOSH QUIROZ, an individual,

Plaintiff,

vs.

BMW OF NORTH AMERICA, LLC, a
Delaware Limited Liability Company;
EAST BAY AUTOMOTIVE, INC. d/b/a
EAST BAY BMW, a California
Corporation; and DOES 1
through 20, inclusive,

Defendants.

CASE NO. 3:17-cv-05216 WHA

**JOINT CASE MANAGEMENT
STATEMENT & [PROPOSED]
ORDER**

The parties to the above-entitled action jointly submit this JOINT CASE
MANAGEMENT STATEMENT & PROPOSED ORDER pursuant to the Standing
Order for All Judges of the Northern District of California dated July 1, 2011 and
Civil Local Rule 16-9.

1 1. Jurisdiction & Service

2 The Court has subject matter jurisdiction in this action pursuant to pursuant to
3 28 U.S.C. §§ 1331, 1446, and 1367(a) as it involves a claim arising under a Federal
4 statute (the Federal Magnuson-Moss Warranty Act, 15 U.S.C. 2301 et seq.). There
5 are no pending issues regarding personal jurisdiction or venue. All parties in the
6 action have been served except Defendant EAST BAY AUTOMOTIVE dba EAST
7 BAY BMW. The parties anticipate that Defendant East Bay BMW will be served
8 and will appear in the action within 30 days.

9 2. Facts

10 Plaintiff contends that a 2015 BMW i8 automobile which he purchased in
11 May 2016 had various alleged defects which Defendant was unable to correct within
12 a reasonable number of repair attempts in violation of Defendant's express and
13 implied warranties applicable to the vehicle and in violation of provisions of the
14 California Song Beverly Warranty Act (California Civil Code §§ 1790 et seq.) and
15 the Federal Moss Magnuson Warranty Act (15 U.S.C. § 2301 et seq.). Defendant
16 BMW denies the allegations.

17 3. Legal Issues

18 Whether the alleged defects in the subject vehicle are covered by the express
19 warranties issued by Defendant on the vehicle;

20 Whether the alleged defects in the subject vehicle are covered by implied
21 warranties of merchantability under the California Song Beverly Warranty Act
22 and/or the Federal Moss Magnuson Warranty Act;

23 Whether the alleged defects in the subject vehicle substantially impair the
24 safety, value or use of the vehicle;

25 Whether Defendant was unable to correct the alleged defects in the subject
26 vehicle within a reasonable number of repair attempts.

27 4. Motions

28 There are no motions currently pending. Other than possible motions to

1 compel further discovery responses, the parties do not anticipate any motion practice
2 in the case.

3 5. Amendment of Pleadings

4 The parties do not anticipate any amendment of the pleadings in this action.

5 6. Evidence Preservation

6 Counsel for the parties have reviewed the Guidelines Relating to the
7 Discovery of Electronically Stored Information and have met and conferred
8 pursuant to FRCP Rule 26(f) regarding reasonable and proportionate steps taken to
9 preserve evidence relevant to the issues reasonably evident in this action.

10 7. Disclosures

11 The parties intend to comply with the initial disclosure requirements of FRCP
12 Rule 26 pursuant to the Case Schedule adopted in the Case Management Conference
13 in this action.

14 8. Discovery

15 Defendant BMW has served Plaintiff with a set of written discovery requests
16 and anticipates that an inspection of the subject vehicle and a deposition of Plaintiff
17 will be conducted prior to mediation in the case. Plaintiff will be produced for
18 deposition and the subject vehicle will be produced for inspection prior to the
19 mediation in this. In addition, Plaintiff will propound written discovery and take
20 depositions of Defendants prior to the mediation in this case.

21 9. Class Actions

22 Not applicable.

23 10. Related Cases

24 None.

25 11. Relief

26 Plaintiff contends he is entitled to replacement of the vehicle or restitution of
27 all amounts paid or payable under the sales contract with interest at the legal rate;
28 civil penalties under the Song –Beverly Act; consequential damages according to

1 proof at trial; and attorney fees and expenses incurred in pursuing the action.

2 12. Settlement and ADR

3 There have been no settlement discussions in the case to date. The parties
4 have filed a Stipulation to ADR in this action in which they have agreed to
5 participate in a private mediation after necessary discovery has been completed.
6 The parties anticipate that the mediation will be completed on or before April 30,
7 2018.

8 13. Consent to Magistrate Judge For All Purposes

9 Defendant BMW has declined to consent to the jurisdiction of a Magistrate
10 Judge in this action.

11 14. Other References

12 The parties do not believe that this action is suitable for referral to binding
13 arbitration, to a Special Master or to the Judicial Panel on Multidistrict Litigation.

14 15. Narrowing of Issues

15 The issues in this action are fairly straightforward and the parties do not
16 anticipate that there will be a need for bifurcation of any issues, claims or defenses.
17 If the case proceeds to trial, the parties anticipate that the issues for resolution can be
18 narrowed by way of stipulated facts.

19 16. Expedited Trial Procedure

20 The parties do not consider this action to be suitable for the Expedited Trial
21 Procedure of General Order 64, Attachment A.

22 17. Scheduling

23 The parties propose the following case deadlines:

24 Non Expert Discovery Cut Off:	August 31, 2018
25 Expert Designation:	September 28, 2018
26 Last Day to Hear Dispositive Motions:	October 31, 2018
27 Pretrial Conference:	December 20, 2018
28 Trial:	January 14, 2019

18. Trial

Both parties are requesting a jury trial of the action.

19. Disclosure of Non-Party Interested Entities or Persons

Plaintiff has filed a Certification of Interested Parties required by Civil Local Rule 3-15 (Docket No. 10). As set forth in the Certification, the following Entities may have a financial interest in the subject matter in controversy, in a party to the proceeding or any other kind of interest that could be substantially affected by the outcome of the proceeding:

<u>Entity</u>	<u>Relationship to Defendant</u>
Josh Quiroz	Plaintiff
Consumer Legal Services, P.C.	Attorneys for Plaintiff

Defendant BMW has filed a Certification of Interested Parties required by Civil Local Rule 3-15 (Docket No. 10). As set forth in the Certification, the following Entities may have a financial interest in the subject matter in controversy, in a party to the proceeding or any other kind of interest that could be substantially affected by the outcome of the proceeding:

<u>Entity</u>	<u>Relationship to Defendant</u>
BMW of North America, LLC	Defendant
Bayerische Motoren Werke AG	Defendant
BMW (US) Holding Corp.	Related Entity
BMW International Holding B.V.	Related Entity
BMW Beteiligungs GmbH & Co. KG	Related Entity
BMW INTEC Beteiligungs GmbH	Related Entity

20. Professional Conduct

Counsel of record for the parties have reviewed the Guidelines for Professional Conduct for the Northern District of California.

21. Other

Nothing anticipated at this time.

Dated: November 30, 2017 /s/ Jeeho H. Lim

Counsel for Plaintiff

Dated: November 30, 2017 /s/ Robert W. Farrell

Counsel for Defendant

CASE MANAGEMENT ORDER

The above JOINT CASE MANAGEMENT STATEMENT & PROPOSED ORDER is approved as the Case Management Order for this case and all parties shall comply with its provisions. [In addition, the Court makes the further orders stated below:]

IT IS SO ORDERED.

Dated:

UNITED STATES
DISTRICT/MAGISTRATE JUDGE